

**Hearing before the House Committee on Government Reform  
Subcommittee on Human Rights and Wellness  
“International Child Abduction: The Rights of Abducted American Citizens Being  
Held in Saudi Arabia”  
Testimony of Assistant Secretary of State for Consular Affairs  
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July 9, 2003**

Mr. Chairman, Members of the Subcommittee:

I am pleased to be here today to report on the work done by the Department of State in the area of international child abduction. I believe that you can understand a lot about a society by the way it treats its most vulnerable members and I think that the time, energy, and attention devoted to this problem at the Department of State and within the U.S. Government reflects well upon the United States as a society. We at the Department of State are rapidly approaching the tenth anniversary of the creation of the Office of Children’s Issues – where we handle matters of international adoptions, abductions, and the return of children to their habitual residence under the Hague Convention. It seems an appropriate time to take stock of how far we have come in helping parents in this country and where we would like to go in the future.

Before I do that, however, I would like to note that the U.S. Congress has been of inestimable help to the Department in securing the return of abducted and wrongfully retained children from overseas through both your institutional and your personal efforts. The bill popularly known as the “Amber Alert” law, among its many other accomplishments, made the attempt to abduct a child from the United States a crime, while the International Parental Child Abduction Prevention Act of 2003 expands the Department’s authority to refuse or revoke U.S. visas for certain family members of non-U.S. citizens who abduct American children. These are tools that add new teeth to my ability, and that of my officers in Children’s Issues and in consular sections around the world, to raise the stakes for those who would defy a U.S. court order and kidnap their children from the United States. I also want to mention those members of Congress and specifically many members of this very committee who have backed our efforts to recover children abducted to foreign countries. You have readily raised these cases in your travels abroad, where you have access to the highest levels of leadership in the countries where many of our children are wrongfully retained. Your willingness to do so demonstrates convincingly to foreign governments that the United States is totally committed to the return of our most vulnerable citizens. I thank you for your willingness to deliver this message; it really helps us at the State Department to have your support.

While the work I do in Consular Affairs is all significant, few issues are as meaningful to me personally as that affecting abducted children. In January, I traveled to Saudi Arabia, Lebanon and Syria and raised the issue of international parental child abduction with senior government officials in each country. Since I made that trip we have seen seven Americans returned to the United States from those three countries. I

visited Saudi Arabia again in April to emphasize the same concerns. We meet regularly with Saudi officials, both in Washington and Riyadh, to seek solutions in specific cases and to find more systematic ways to address the problem of international parental child abduction. I hosted a "Town Hall" meeting on February 24 that was attended by over 60 left-behind parents. Parents identified ways they think we can serve them better, and the meeting was extremely useful. We are planning a second such meeting for later this summer.

Results often are slow in coming and the wait for the left behind parent excruciating, but our efforts can produce success. In the month of April of this year, we have seen fifteen children returned from eight different countries, including two from Saudi Arabia. In May of this year, an equal number of children were returned to the United States from abroad. I am certainly not here to claim personal credit for these cases. Where there is credit to be taken it properly belongs to the determination of the left behind parents to never abandon the fight to regain their children no matter what the odds. I do however want you to know that we never lose sight of the goal, nor of the fact that, so long as one child is wrongfully retained abroad, our job is incomplete.

We all know that institutional efforts are the most effective over time, which is why I began my testimony noting the ten years since the founding of the Office of Children's Issues. Since the U.S. became party to the Hague Convention on the Civil Aspects of International Child Abduction in 1988, the Department of State has worked to improve the Convention's implementation in this country. During the first year we created a new child custody division to coordinate our work in this area. In 1994 we consolidated our efforts on behalf of children abroad in our Office of Children's Issues, now an office of 28 people who devote all their time to helping in the international adoption process and assisting in the return of children wrongfully taken and/or retained abroad. Over the years, we have expanded our cooperative arrangement with the National Center for Missing and Exploited Children, formalized in an agreement between the Department of State, the Department of Justice, and NCMEC and signed on September 1, 1995, to provide additional assistance for parents and children in all international child abduction cases. They are our partners and our friends; NCMEC is an extraordinary organization.

When a parent takes or keeps a child from his or her home, and prevents the child from having a relationship with the other parent, the trauma to the child is immediate and compounded each day the child is not returned home. International child abductions are often complicated by the fact that many abducted children are from multi-cultural and multinational families. The children themselves are often citizens of both the United States and the country to which they were abducted. Our position, which I have made clear in my meetings with foreign government officials, is that a child abducted from the U.S. in violation of custody rights recognized under U.S. law should be returned. The taking parent should not be allowed to benefit from the abduction. Ultimately, however, the fate of these children is decided by the courts or other authorities in the countries to which they have been abducted, or in which they have been wrongfully retained. U.S. court orders, as we all know, are often not enforceable abroad. Even when everyone

involved is a U.S. citizen, these cases are often difficult to resolve once the child has been removed from the United States.

## **The Hague Convention**

Recognizing that abductions are individual tragedies that the courts of most countries legitimately wish to resolve in good faith for the benefit of the affected children, the United States has long taken a lead in creating a mechanism for the return of children abducted internationally. The United States was instrumental in the negotiation of the Hague Convention. The Convention provides a civil legal mechanism in the country where the child is located for parents to seek the return of, and access to, their child. It applies only to cases where children habitually resident in a Hague Convention country have been abducted to, or wrongfully retained in, another country party to the Convention. The Bureau of Consular Affairs' Office of Children's Issues acts as the Central Authority for the Convention in the United States.

Under the Convention, a Hague proceeding does not decide custody; instead, it decides in which country a custody determination should be made. A Hague proceeding should, with very few and limited exceptions, result in an order from the court where the abducted child is located for return to the country of habitual residence so that the parents may pursue the resolution of custody there. While the Convention is far from 100% successful, it does provide a legal channel for left behind parents in a foreign court, and results in children's return to the United States. We also believe that the existence of the Convention's return mechanism has deterred an untold number of abductions.

Approximately 60% of the cases in which we provide assistance are now covered by the Convention. When the U.S. joined the Convention in 1988, only nine other countries were party. Today the Convention is in effect between the U.S. and 52 other countries. We encourage countries which embrace the Convention's basic principles to become members as the best possible means of protecting children from the harmful effects of abduction. As we look to improve the Convention's effectiveness, we must remember the many parents who wish that they had even this less-than-perfect mechanism to seek return of their children.

While The Hague Convention has facilitated the return of many children to the United States, and while it is a vast improvement over the lack of any international mechanism whatsoever, it is an imperfect instrument. The Hague Convention does not guarantee a satisfactory result for every left-behind parent. Compliance with the Convention varies among foreign jurisdictions. Even when the left-behind parent has filed an application in a timely fashion, hired legal counsel, and literally done everything "right", that parent, and the United States, may be bitterly disappointed with the result. There have been some decisions by foreign courts in Hague cases with which we do not agree. However, these decisions are made by independent judiciaries in independent sovereign states. The Hague Convention cannot make a biased judicial system fair, or a nationalistic judge more objective, nor can it remove gender bias from a society or its judicial system.

While the Hague Convention does not guarantee the return of all abducted or wrongfully retained children, the Convention provides us an invaluable tool that is absent in our efforts to resolve abduction cases from countries such as Saudi Arabia that are not Hague signatories and whose judicial system, cultural traditions, and family law are often radically different from our own. The Department, when dealing with such countries, works with other federal and state agencies and the foreign governments concerned to explore ways to recover the children. This may include withholding or revoking the U.S. visas of abducting parents, people who support them, and their family members; revoking U.S. passports at the request of federal law enforcement authorities if a federal warrant is issued for the arrest of a U.S. citizen; and pressing foreign governments for assistance in returning children and either deporting or extraditing their abductors. We also seek to visit abducted children to verify their well-being and facilitate communication between the parents. In some countries with legal systems and practices that vary drastically from those of the U.S., we are exploring the viability of bilateral consular arrangements that could improve mediation and access assistance provided to parents, even as we continue to seek mechanisms for a child's return. We are working to expand and revise our Standard Operating Procedures to provide more comprehensive and consistent service to left-behind parents. We will soon establish a Prevention Unit within CA/OCS/CI to focus more attention on this important function.

Let me be completely clear on the main question here: we see no difference between the rights of left behind parents in cases involving Hague and non-Hague countries and our aim is always the same, the return of the child to the United States. We must, however, work in the manner most likely to be effective in pursuing that aim and we should not neglect those measures that, while they fall short of meeting our ultimate goal of return, nonetheless enable the left behind parent to have a place in their child's life. Children, as they grow older, are far more likely to exert useful pressure towards reunion with the left behind parent if that parent is known to and important to them.

Let me close my discussion of international abductions with an observation that is perhaps obvious, but whose implications are not necessarily self-evident: every situation in this area is unique and there is no tailor-made solution that should be applied across the board. The legal tools we have at our disposal are vitally important and we will not hesitate to use them when we, and the left behind parents, believe them to be relevant and likely to promote a positive outcome. Often, however, the most effective way to handle these cases is through the consistent use of our most vital resource: the persuasive power of our diplomatic efforts abroad. Our Ambassadors and their staff will push foreign governments to recognize the rights of left behind parents, facilitate visitation, help advance Hague compliance where that remedy is available, and constantly remind foreign interlocutors that the U.S. government cares about, supports, and works for the rights of left behind parents whose children have been wrongfully removed from the U.S. and retained abroad.